



Parole:

& Then & Now



The criminal justice system has undergone many changes in the United States, most recently prompted by a “get tough on crime” attitude felt nationwide. As part of this get tough on crime campaign, politicians and their constituents alike have called for reforms in the criminal justice system, including the abolishment of parole. While some states have abolished parole, systems similar to parole still exist throughout the United States. These systems release prisoners under some form of supervision and in many cases before they have served their full sentence. This brief will discuss the rise and fall of parole in the United States and whether its role in early release has been abolished.

The History of Parole

Parole, both a procedure by which a board administratively releases inmates from prison as well as a provision for post-release supervision, comes from the French word *parol*, referring to “word,” as in giving one’s word of honor or promise. Over time, it has come to mean an inmate’s promise to conduct him or herself in a law-abiding manner and according to certain rules—in exchange for release. In penal philosophy, parole is part of the general 19th-century trend in criminology which changed from punishment to reformation. Persons under parole supervision served terms of incarceration and were released to live and work in the community under supervision, with continued adherence to the law monitored.

Even though parole did not originate in the United States, it was introduced stateside in the 1800’s, primarily to foster offender reformation. Zebulon Brockway, a Michigan penologist, is given credit for implementing the first parole system in the United States. He proposed a two-pronged strategy for managing prison populations and preparing inmates for release. His system was composed of indeterminate sentencing (a sentence where the release date is established at the discretion of a releasing authority) coupled with parole supervision. He was given a chance to put his proposal into practice in 1876 when appointed superintendent at a new youth reformatory, the Elmira Reformatory in New York. He instituted a system of indeterminacy and parole release, and is commonly credited as the father of both in the United States. Brockway’s ideas reflected the tenor of the times; a belief that criminals could be reformed, and that every prisoner’s treatment should be individualized. Prisoners were looked upon as persons who could become effective members of society, instead of as criminals so dangerous that the key should be thrown away once locked up.



Parole: Then & Now



Useful Terms

Parole - A procedure by which a board administratively releases inmates from prison as well as a provision for post-release supervision.

Discretionary Parole - Release of a person into the community because of a parole board decision.

Mandatory Release - The required release of inmates at the expiration of a certain time period. Mandatory releases are persons whose release from prison was not decided by a parole board. Includes those entering because of determinate sentencing statutes, good-time provisions, or emergency releases.

Expiration Release - Refers to the release of an inmate after serving his full sentence.

Parole Supervision - Community supervision of an individual released from prison with a set of conditions for remaining on parole, which, if violated, can cause the person to be returned to prison. This subsequent incarceration can be for any of the remaining portion of the sentence the inmate may have on the current offense.

Indeterminate Sentencing - A release date is established at the discretion of a releasing authority, such as a parole board.

Determinate Sentencing - A release date is established at the time of sentencing.

Post-Prison Supervision - When the inmate is released from prison into community supervision. Some post-prison supervision has a set of conditions which, if violated, can cause the person to be returned to prison. Other post-prison supervision takes place after an inmate has served a full prison term and is then required to remain under supervision for a set period of time after being released.

On being admitted to Elmira, each inmate (males between the ages of 16 and 30) was placed in the second grade of classification. Six months of good conduct meant promotion to the first grade; however, misbehavior could result in being placed in the third grade. If an inmate was placed in the third grade, he would have to work his way back up. Continued good behavior in the first grade resulted in release. Paroled inmates remained under the jurisdiction of authorities for an additional six months, during which the parolee was required to report on the first day of every month to his appointed volunteer guardian (from which parole officers evolved) and provide an account of his situation and conduct. Written reports became required and were submitted to the institute after being signed by the parolee's employer and guardian.

After Brockway's introduction, parole and indeterminate sentencing spread rapidly through the United States, and in 1907, New York became the first state to adopt all the components of a parole system: indeterminate sentences, a system for granting release, post release supervision, and specific criteria for parole revocation. By 1927, only Florida, Mississippi, and Virginia were without parole systems. By 1942, all states and the federal government had a parole system run by parole boards. These parole boards, usually political appointees, were given broad discretion to determine when an offender was ready for release, a decision limited only by the constraints of the maximum sentence imposed by the judge.

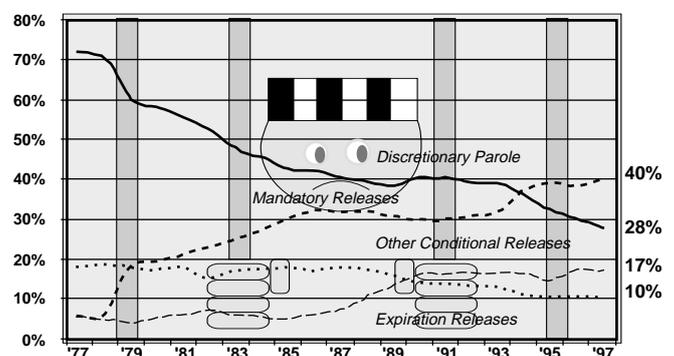
Then with the growth of parole, it was used as a standard mode of release from prison, routinely considered upon completion of a minimum term of confinement. What had initially been used as a special privilege to be extended to exceptional prisoners, came to be used as a mechanism for controlling prison growth. Parole also

developed a distinctly rehabilitative rationale, incorporating the promise of help and assistance as well as surveillance. By the mid-1950's, indeterminate sentencing coupled with parole release was so well entrenched in the United States, it was the dominant sentencing structure in every state.

In the early 1970's, states followed an indeterminate sentencing model and permitted parole boards to determine when an offender would be released from prison. In addition, good-time reductions for satisfactory prison behavior, earned-time incentives for participation in work or educational programs, and other time reductions in order to control prison crowding resulted in the early release of prisoners. These policies permitted officials to individualize the amount of punishment or leniency an offender received and provided a means to manage the prison population. Indeterminate sentencing coupled with parole release was routine and considered to be good correctional practice.

The good intentions of the parole system had evolved to the extreme, and prisoners were being released early in record numbers. By the late 1970's, more than 70 percent of all inmates released were a result of decisions made by a parole board. [See Figure 1] The percentage of United States prisoners released on parole had risen from 44 percent in 1940, to a high of 72 percent in 1977, and led some states to question the very foundations of the practice of parole, which resulted in the number of prisoners released in this fashion declining. In the late 1970's and early 1980's, the discretion in sentencing policy ultimately led critics to argue that some offenders were punished more harshly

Figure 1 - Percent of State Prisoners Released by Various Methods



Source: Bureau of Justice Statistics, *National Prisoner Statistics*, selected years.



By the end of 1999, 14 states had abolished discretionary parole for all offenders, and 21 others had severely limited its use. [See Figure 2, page 3] Of the 14 states that abolished discretionary parole, eight states abolished discretionary parole within the last 10 years. However, the number of states that have abolished discretionary parole can be misleading if the difference between discretionary parole and parole is not understood. The abolishment of discretionary parole takes the release decision away from the parole board, and some of the states that have abolished discretionary parole have other systems similar to parole in place. For example, some states provide that a prisoner serve a set amount of time in prison and then be released automatically into the community under supervision. This system releases a prisoner to the community with a set of conditions, which if violated, could cause the person to be returned to prison to serve out the remainder of their prison sentence. This system is similar to parole in that a prisoner is released before the entire sentence is served, but a parole board is not involved in determining when the release should occur.

Although some states have abolished discretionary parole, 15 states have given their parole boards full authority to release inmates through a discretionary process, with other parole boards exercising discretionary control over inmates who were sentenced for crimes committed prior to the effective date of the law that eliminated parole board release. In 21 states, parole authorities operate under what might be called a sunset provision, still using this discretionary control over a small or diminished parole-eligible population. However, in those states that have retained parole as a means of releasing prisoners, granting parole has become much more stringent. In Texas over half, or 57 percent of all cases considered for parole release in 1988, were approved. However, that figure dropped in 1998 to just 20 percent. In general, states restrict the possibility of parole board release based on the offenders' criminal history or the circumstances of the offense; and mandatory minimum sentencing policies now exist in every state.

In the 15 states that give parole authorities the discretionary power to release prisoners, most of them utilize formal risk prediction instruments or parole guidelines to assist in the parole decision making. Parole guidelines are usually actuarial devices, which objectively predict the risk of recidivism based on crime and offender background information. The guidelines produce a score for each individual by summing up points assigned for various background characteristics. Inmates with the least serious criminal history and the lowest statistical probability of re-offending would then be the first to be released. This use of objective instruments helps to reduce the disparity in parole decision making, and has been shown to be more accurate than release decisions based on those which utilize case studies or individualized methods in their determinations.

As has been noted, abolishment of parole was a target early on as a way to increase sentences and lock prisoners away longer. Since the 1970's, parole has been abolished in some states and limited in others. Despite these developments, parole and similar systems are still in use throughout the United States, but the way parole is used has changed.



Post-Prison Supervision

As discussed earlier, some states have programs similar to parole. Today, 48 states and the federal system have some requirements for post-prison or parole supervision, with Maine and Virginia being the exceptions. At the federal level, the Comprehensive Crime Control Act of 1984 created the United States Sentencing

Commission. That legislation abolished the United States Parole Commission, and parole was phased out from the federal criminal justice system in 1997. Offenders sentenced to federal prison are no longer eligible for parole release, but they are required to serve a defined term of "supervised release" following release from prison. That means a person serves a set number of years in prison and a set amount of time supervised in the community, all of which are pre-determined by a court.

In Maine and Virginia, both the parole board and parole supervision have been abolished. In Virginia, the judge must remember to impose a split sentence with a term of probation, to follow prison, in order to have control of released prisoners. A few other states have also considered abolishing post-prison or parole supervision, but the transition from prison back into the community is exceedingly difficult, with recidivism rates highest in the first year following release.

Some figures put the number at fully half of all parolees failing to successfully complete parole, and their returns to prison represent about a third of all incoming United States prisoners each year. To assist in this high-risk time period, post-prison or parole supervision has historically provided job assistance, family counseling, and chemical dependency programs.

In 1997, nearly 80 percent of all released prisoners were subject to some form of post-prison or parole supervision. While discretionary release from prison by a parole board has been eliminated by some states, some form of post-prison supervision still exists. To distance themselves from the negative image that parole has, some states changed the name. For example, post-prison supervision is called, variously among the states, controlled release authority in Florida, community control in Ohio, supervised release in Minnesota and in the federal system, and community custody in



Washington. In some of the states that have abolished discretionary parole and established determinate sentencing, a defendant could receive a sentence for a set amount of time and upon completion of a percentage of the sentence, say 85 percent, be released automatically without the discretion of a parole board to serve the remaining 15 percent of the sentence under supervision in the community, barring violation of the terms of release. Parole boards, in various forms, have the responsibility to set conditions of release for offenders under conditional community or supervised release, the authority to return an offender to prison for violating the conditions of parole or supervised release, and the power to grant parole for medical reasons. Consequently, parole is not dead, rather it has taken on a new identity.

Truth-In-Sentencing

Truth-in sentencing is a new movement, started when parole was called into question. People reacted negatively to prisoners being

released early and called for stronger sentences and requirements that inmates serve more of the sentence actually imposed by the courts. As a result of this public outcry, states and the federal government responded with various laws to combat the problem of early release. These new laws took on the moniker, truth-in-sentencing.

Generally, truth-in-sentencing measures address the criminal sentence imposed by the court and the actual time an offender serves in prison. These truth-in-sentencing laws require offenders to serve a substantial portion of their prison sentence imposed by the court before being eligible for release, but the definition of truth-in-sentencing varies among the states, as does the percentage of sentence required to be served and the crimes covered by the laws. [See Figure 3] Some states include all crimes in their truth-in-sentencing legislation, and most states target violent offenders under truth-in-sentencing. The percentage of sentence required to be served under truth-in-sentencing, in general, spans from 50 percent to 100 percent of a minimum sentence. Florida, Mississippi, and Ohio

require all offenders to serve a substantial portion of their sentences before release. Indiana, Maryland, Nebraska, and Texas have a 50 percent requirement. Idaho, Nevada, and New Hampshire require 100 percent of sentence to be served.

Moreover, Arizona adopted truth-in-sentencing in 1993, while undertaking a complete revamping of its criminal code. The law established the requirement that all inmates serve 85 percent of their sentences, followed by supervision in the community for the remaining 15 percent. California adopted truth-in-sentencing legislation in 1994 and limited work credits that violent offenders can earn so that they must, by law, serve at least 85 percent of their sentence. Florida repealed sentencing guidelines in favor of minimum sentences, no parole for persistent offenders, and an 85 percent policy for others. Ohio reclassified all felony offenses and addressed truth-in-sentencing by eliminating discretionary parole release. Oklahoma enacted a major truth-in-sentencing act that requires violent offenders to serve 85 percent of the sentence, while other less serious offenders serve less time

Figure 3. Truth-in-sentencing requirements, by State

Meet Federal 85% requirement		50% requirement	100% of minimum requirement	Other requirements
Arizona	Missouri	Indiana	Idaho	Alaska ^c
California	New Jersey	Maryland	Nevada	Arkansas ^d
Connecticut	New York	Nebraska	New Hampshire	Colorado ^e
Delaware	North Carolina	Texas		Kentucky ^f
District of Col.	North Dakota			Massachusetts ^g
Florida	Ohio			Wisconsin ^h
Georgia	Oklahoma ^b			
Illinois ^a	Oregon	^a Qualified for Federal funding in 1996 only. ^b Effective July 1, 1999, offenders will be required to serve 85% of the sentence. ^c Two-part sentence structure (2/3 in prison; 1/3 on parole); 100% of prison term required ^d Mandatory 70% of sentence for certain violent offenses and manufacture of methamphetamine. ^e Violent offenders with 2 prior violent convictions serve 75%; 1 prior violent conviction, 56.25%. ^f Effective July 15, 1998, offenders are required to serve 85% of the sentence. ^g Requires 75% of a minimum prison sentence. ^h Effective December 31, 1999, two-part sentence: offenders serve 100% of the prison term and a sentence of extended supervision at 25% of the prison sentence. Source: BJS Special Report: Truth-in-Sentencing in State Prisons		
Iowa	Pennsylvania			
Kansas	South Carolina			
Louisiana	Tennessee			
Maine	Utah			
Michigan	Virginia			
Minnesota	Washington			
Mississippi				



or are handled in the community corrections program. These examples illustrate how states have moved towards increasing time served in prison for serious or violent offenders. Some of the changes occurred before federal funding was approved, and others were a direct result of the federal government influence.

As a means of influencing the states, Congress addressed truth-in-sentencing in 1994 as part of the Violent Crime Control and Law Enforcement Act that was subsequently amended in 1996. This legislation authorized funding at \$8 billion, through the year 2000, for the Violent Offender Incarceration and Truth-in-Sentencing grant (VOITIS) program. VOITIS authorized the federal government to provide financial assistance to the 50 states, the District of Columbia, and the United States territories, to construct or renovate prisons to incarcerate additional violent offenders. Those states and territories that demonstrated that truth-in-sentencing and related incarceration policies existed for violent offenders became eligible for an increased portion of federal funding. Since fiscal year 1996, the Justice Department has provided more than \$3.8 billion through the VOITIS incentive grants program.

The federal regulations were designed to accommodate various sentencing structures, including guidelines, as well as new laws that specified 85 percent of sentence policy.

To qualify for truth-in-sentencing grants, states must require persons convicted of certain serious or violent offenses to serve not less than 85 percent of the prison sentence. To satisfy the 85 percent of sentence test and qualify for federal funds for prison construction, states have limited the powers of parole boards to set release dates, or of prison managers to award good time and gain time (time off for good behavior or participation in work or treatment programs), or both. The federal government's financial assistance is spurring states to meet certain truth-in-sentencing guidelines and in the process, accommodate the public's desire that more serious or violent offenders serve longer terms in prison. By the end of 1998, 27 states and the District of Columbia required violent offenders to serve at least 85 percent of their prison sentence, up from five states in 1993. Another 13 states have adopted truth-in-sentencing laws requiring violent offenders to serve a substantial portion of their sentence before being eligible for release. As a result, some 70 percent of prison admissions for a violent offense in 1997 were in states requiring offenders to serve at least 85 percent of their sentence and 90 percent were in states requiring at least 50 percent of their sentence to be served. The Bureau of Justice Statistics issued a report listing the 27 states and the District of Columbia that required violent offenders to serve at least 85 percent of their prison sentence, and noted that these states qualified for VOITIS truth-in-sentencing

funds. The states and the District of Columbia that met the federal standard for truth-in-sentencing in 1998 are set out in *Figure 2, page 3*. Figure 2 shows that truth-in-sentencing is sweeping the nation as the new penal methodology in much the same way parole did at the turn of the twentieth century, with serious and violent criminals paying with longer terms behind bars.



As states continue to enact restrictions on the possibility of early release, prisoners (especially violent offenders) are spending more time behind bars. An increasing amount of time served by offenders is

contributing to the growth in state prison populations. As the number of offenders sentenced under truth-in-sentencing continues to grow, the national average percentage of sentences served by violent offenders will of course correlate and continue to increase. Because truth-in-sentencing laws are a relatively recent trend, the majority of offenders sentenced under them will not be released from prison for many years, and statistics based on current release data may underestimate changes in time served due to truth-in-sentencing.

Figure 4. Time served in prison for the first releases from State prison, by release type, 1990-96

Year	Parole Board	Mandatory Parole	Expiration of Sentence
Months Served			
1990	23	20	27
1991	23	20	27
1992	23	19	22
1993	23	19	23
1994	24	20	26
1995	24	23	25
1996	25	24	26

Note : Includes only offenders with a sentences of more than 1 year released for the time on the current sentence. Excludes persons released from prison by escape, death, transfer, appeal or detainer.
Source: BJS Special Report: Truth-in-Sentencing in State Prisons



More Time in Prison

Franklin E. Zimring, director of the Earl Warren Legal Institute, writes that “no matter what the question has been in American criminal justice over the last generation, prison has been the answer.” This is substantiated when we look at recent statistics showing increased time in prison across the board. It doesn’t seem to matter what the state of parole is; rather truth-in-sentencing seems to have affected all states, with and without parole alike. The figures below point out the rising trends in time spent behind bars and demonstrate that the abolishment of parole is not necessarily the cause.

For example, the average time served among offenders released by a parole board from 1990 through 1994 increased from 23 months to 24 months, and to 25 months in 1996. [See Figure 4] The time served for those released under non-discretionary

mandatory parole also increased from 20 months in 1990, to 23 months in 1995, and 24 months in 1996. At the same time, the overall number of releases relative to the number of inmates in prison dropped from 37 per 100 state prisoners in 1990, to 31 per 100 in 1996; the release rate for murderers went from about 10 per 100 in 1990, to five per 100 in 1996; and 18 percent of released prisoners in 1997 served their entire sentences compared to 13 percent in 1990. Therefore, total time served in prison has increased in recent years for all offenders, whether released by a parole board or released by other means.

Also, abolishing parole is not necessarily responsible for keeping prisoners in jail longer. During 1996, violent offenders released nationwide by the discretion of a parole board served 42 months while other conditional releases served 38 months in prison. [See Figure 5] Offenders released by a parole board, who were in prison for murder/non-negligent manslaughter, served 21 months longer than other conditional

releases (96 months v. 75 months); offenders serving time for assault who were released by a parole board served 30 months, or five months longer than other conditional releases (25 months).

Additionally, property offenders released by a parole board served 23 months and other conditional releases served 22 months. Drug offenders released by a parole board served 21 months and other conditional releases served about 19 months in prison. Persons in prison for a public-order offense served about the same amount of time, whether released by a parole board (16 months), or other conditional releases (17 months). The above figures indicate the trend that parole boards have followed, established by truth-in-sentencing legislation, with the amount of time offenders serve in prison increasing. Often, offenders released by parole boards serve the same amount of time or longer than offenders released through other methods.

Another way to look at time spent in prison is to consider the percent of sentence served

Figure 5. Sentence length, time served, and percent of sentence served, for first releases, by offense and release type, 1996

Most serious offense	Maximum sentence		Time served in prison		Percent of sentence served in prison	
	Parole board	Other conditional*	Parole board	Other conditional*	Parole board	Other conditional*
All offenses	79 mo	47 mo	25 mo	25 mo	29.10%	47.00%
Violent offenses	113 mo	65 mo	42 mo	38 mo	34.00%	53.20%
Murder/nonnegligent manslaughter	229	138	96	75	35.60	52.30
Rape	157	94	65	64	37.60	57.20
Other sexual assault	117	75	44	41	35.50	50.00
Robbery	118	63	42	40	32.40	56.90
Assault	81	45	30	25	35.10	51.50
Drug offenses	74 mo	40 mo	21 mo	19 mo	25.60%	41.80%
Possession	66	42	18	18	24.50	39.60
Trafficking	80	42	22	21	25.30	44.40

Note: Data were obtained from the National Corrections Reporting Program. Includes only offenders with a sentence of more than 1 year released for the first time on the current sentence.

Excludes persons released from prison by escape, death, transfer, appeal, or detainer.

*Includes mandatory parole releases and other nondiscretionary conditional releases for select States.

Source: BJS Special Report Truth-in-Sentencing in State Prisons



by inmates. Offenders who were released by a parole board during 1996 served 29 percent of their sentence, and other conditional releases served 47 percent of their sentence. Offenders released in 1996 by a parole board had an average sentence of 79 months, and offenders released in 1996 via other conditional releases had an average sentence of 47 months. This does not mean that parole boards were easier on offenders released in 1996, rather that offenders released by a parole board had been sentenced to serve 32 months longer than other conditional releases.

Conclusion

The changes in the criminal justice system in the last twenty-odd years that find offenders serving substantial portions of their sentence reflect a confluence of conservative and liberal politicians who view falling crime rates as evidence that things must be working. Although lawmakers view these results with satisfaction, their cause is not as clear. On the one hand, some scholars and politicians attribute longer sentences for criminals to the abolishment of parole. On the other hand, statistics show this is not necessarily the case. Allen Beck, chief of corrections statistics at the Bureau of Justice Statistics, recently observed that ending parole by itself “has no real impact on time served.” Bureau of Justice Statistics data reveal no obvious relationship between type of release (mandatory v. parole boards) and actual length of time spent in prison prior to release. Time served in prison has increased in recent years, but this is attributable to the implementation of truth-in-sentencing laws, not the abolishment of parole boards. Some states have abolished parole and gone to determinate sentencing, others have renamed parole, while others, like Texas, have kept their parole boards, which serve as strict guardians of the prison population, and rarely release offenders. The constant that has put criminals in prison longer is the truth-in-sentencing movement and the “get tough on crime” attitude of the populace, not the abolishment of parole.

—by Todd Reimers, SRC

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